

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 80/MP/2015**

- Subject : Petition under Section 66 read with Section 79 (1) (k) and other appropriate provisions of the Electricity Act, 2003 seeking directions to the respondents to allow/enable the Petitioner to sell the power procured by it from the hydro generation project being developed by Dagachhu Hydro Power Corporation, in Bhutan, through power exchanges in terms of Order of this Hon'ble Commission dated 11.9.2014 in Petition No 187/MP/2014.
- Date of hearing : 5.5.2015
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member
- Petitioner : Tata Power Trading Company Limited
- Respondents : National Load Despatch Center and others
- Parties present : Shri Amit Kapoor, Advocate, TPTCL  
Shri Janmali Manikala, Advocate, TPTCL  
Shri Bhushan Pradhan, Advocate, TPTCL  
Shri Karne, Advocate, TPTCL  
Shri Vishal Anand, Advocate, TPTCL  
Shri Bikram Singh, TPTCL  
Shri Sanjeev Mehra, TPTCL  
Shri R.S. Mirji, TPTCL  
Shri Saurabh Srivastava, TPTCL  
Shri S.S. Barpanda, NLDC  
Ms. Abilia Zaidi, NLDC

**Record of Proceedings**

Learned counsel for the petitioner submitted that the present petition has been filed seeking appropriate directions to the respondents to enable the petitioner to sell power procured by it from the Dagachhu Hydro Power Corporation (DHPC) under short term including Power Exchanges. Learned counsel for the petitioner further submitted as under:-

- (a) The Commission vide order dated 11.9.2014 in Petition No. 187/MP/2014 approved an interim arrangement for import of power from DHPC in Bhutan which was finalized after discussions among the representatives of ERPC,

NLDC, ERLDC, PTC and TPTCL in the presence of the staff of the Commission. In the said order dated 11.9.2014, the Commission clarified that the interim arrangement would apply only to the Dagachhu project and the present mechanism of settlement of energy accounts w.r.t. power imported from Tala, Chukha and Kurichhu on actual basis will remain unchanged.

- (b) Pursuant to the interim arrangement, IEX filed Petition No. 483/MP/2014 seeking direction of the Commission for enabling cross border transactions through its Power Exchange. The petition filed by IEX is generic in nature and does not restrict the right of the petitioner to carry out transactions in Power Exchange in light of the order dated 11.9.2014.
- (c) The Commission in order dated 19.12.2008 in Petition No. 88/2008 had observed that once electricity is imported into India, it is subject to the regulatory jurisdiction of this Commission and this Commission has jurisdiction to regulate the import and export of electricity. The said order dated 19.12.2008 was upheld by Appellate Tribunal of Electricity vide its judgment dated 18.2.2009 in PTC India Vs CERC (Appeal No. 15 of 2009).
- (d) After import of electricity at delivery point in India, it ceases to be an imported good and it is guided by the jurisdiction of the Commission. Accordingly, it can be sold at Power Exchange subject to compliance of the existing regulatory framework.

2. The representative of NLDC submitted as under:

- (a) The bilateral trading of electricity is already happening as per the Commission's interim order dated 11.9.2014 in Petition No. 187/MP/2014.
- (b) There are some issues such as market coupling for cross border trade, principles of price discovery, declaration of transfer capability, congestion management and curtailment of trades, etc, which have been highlighted vide affidavit dated 23.3.2015 which need to be addressed before allowing the petitioner to trade power at Power Exchange.
- (c) Since, the Petition No. 483/MP/2014 filed by IEX is pending before the Commission, the petitioner would be granted relief on the basis of the outcome of the petition filed by IEX.
- (d) APTEL's judgment dated 18.2.2009, do not apply to the present case since the power is sold at Power Exchanges and it cannot be said that the power is being sold "locally in India".
- (e) At present only India and not its neighboring countries have Power Exchanges. When multiple seller from Bhutan sell power at Power Exchanges in India, discovery of price from Bhutan power will be happen in India.

3. In response, learned counsel for the petitioner submitted that it is settled position that the power generated at the project is being imported and sold on bilateral basis to India. Therefore, the interim arrangement for sale of power from the project approved by the Commission does not amount to market coupling. The price discovery in Power Exchange is under the regulatory framework.

4. After hearing the learned counsel for the petitioner and the representative of NLDC, the Commission observed that trading of power with neighboring countries through Power Exchanges involves policy decisions by Government of India with regard to import and export of power and being a policy matter, the views of Govt. of India are required for clarity.

5. The Commission requested Ministry of Power to issue necessary guidance with regard to cross border trading in electricity through Indian Power Exchange.

6. The Commission reserved order in the petition.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**